

The House Committee on Judiciary Non-civil offers the following substitute to HB 1121:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to effectiveness of educational programs under the "Quality Basic  
3 Education Act," so as to provide that tampering with state assessments shall be a  
4 misdemeanor; to specify unlawful acts; to authorize investigation and prosecution of such  
5 violations; to provide for guidelines relating to identification of testing irregularities; to  
6 provide for ineligibility for performance pay raises; to provide for statutory construction; to  
7 provide for cumulative remedies; to amend Article 2 of Chapter 10 of Title 16 of the Official  
8 Code of Georgia Annotated, relating to obstruction of public administration and related  
9 offenses, so as to provide for cumulative remedies; to amend Code Section 45-11-1 of the  
10 Official Code of Georgia Annotated, relating to offenses involving public records,  
11 documents, and other items, so as to provide for cumulative remedies; to provide for related  
12 matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
16 relating to effectiveness of educational programs under the "Quality Basic Education Act,"  
17 is amended by adding a new Code section to read as follows:

18 "20-2-281.1.

19 (a) It shall be unlawful for any employee of a local unit of administration to knowingly and  
20 willfully do any of the following acts regarding any assessment administered pursuant to  
21 Code Section 20-2-281:

22 (1) Allow examinees to view test questions prior to or after administration of the test;

23 (2) Copy or reproduce all or any portion of any secure test booklet;

24 (3) Provide guidance to help examinees arrive at correct answers that they may not have  
25 known on their own during or after test administration;

26 (4) Make answer keys available;

H. B. 1121 (SUB)

(5) Fail to follow test security protocols before, during, or after test administration; or  
(6) Participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts  
prohibited by this subsection.

This subsection shall not apply to the public release of any assessment or portion thereof  
by any person authorized to make such release.

(b) It shall be unlawful for any local school superintendent or principal to knowingly or  
willfully fail to develop, implement, and enforce local board of education policies and  
procedures based on State Board of Education requirements and guidelines and test  
publishers' directions to maintain test security.

(c) Any person violating subsection (a) or (b) of this Code section shall be guilty of a  
misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than  
\$1,000.00 or by imprisonment not to exceed 30 days, or by both. In addition, if such  
person holds certification from the Professional Standards Commission, the Professional  
Standards Commission shall take such steps to suspend or revoke such person's  
certification.

(d) The penalty provided in this Code section shall be cumulative of any other penalties  
and remedies otherwise provided by law, including, but not limited to, Code Section  
16-10-20 and Code Section 45-11-1.

(e) In addition to general investigatory and prosecutorial powers, a prosecuting attorney  
and the Attorney General shall be authorized to investigate allegations of violations of this  
Code section and to prosecute such violations.

(f) The Office of Student Achievement shall annually establish and the State Board of  
Education shall adopt statistical guidelines to examine the results of state assessments to  
identify testing irregularities. Such guidelines shall set a threshold value above which such  
assessments shall be examined and below which such assessments may be examined. The  
examination shall determine whether there is evidence of testing irregularities resulting in  
false or misleading results in the aggregate or composite test scores of the class, grade, age  
group, or local school system. The State Board of Education shall invalidate individual  
tests if it determines tampering has occurred.

(g) Any person convicted of violating subsection (a) or (b) of this Code section shall be  
ineligible for performance pay consideration for the year in which such person is found to  
have committed any such violation; provided, however, that it shall be within the sole  
discretion of the Professional Standards Commission to restore eligibility for performance  
pay consideration upon the written application by such person when he or she has  
completed any suspension resulting from such violation.

(h) Nothing in this Code section shall be construed to prohibit or interfere with the  
responsibilities of the State Board of Education or the Department of Education in test

development or selection, test form construction, standard setting, test scoring, and reporting, or any other related activities.

(i) Any person convicted of violating this Code section may also be subject to forfeiture of rights with respect to retirement benefits pursuant to Article 2 of Chapter 1 of Title 47, if provided by law, or pursuant to other laws, if applicable."

## **SECTION 2.**

Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to obstruction of public administration and related offenses, is amended by revising Code Section 16-10-20, relating to false statements and writings, concealment of facts, and fraudulent documents in matters within the jurisdiction of state or political subdivisions, as follows:

"16-10-20.

(a) A person who knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.

(b) The penalty provided in this Code section shall be cumulative of any other penalties and remedies otherwise provided by law, including, but not limited to, Code Section 20-2-281.1 and Code Section 45-11-1."

## **SECTION 3.**

Code Section 45-11-1 of the Official Code of Georgia Annotated, relating to offenses involving public records, documents, and other items, is amended by adding a new subsection to read as follows:

"(g) The penalty provided in this Code section shall be cumulative of any other penalties and remedies otherwise provided by law, including, but not limited to, Code Section 16-10-20 and Code Section 20-2-281.1."

## **SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.